

## TITAN AVIATION CARD TERMS AND CONDITIONS – COMMERCIAL

Please read and retain for your records and future reference.

The creditor and issuer of the Titan Aviation Card is Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels (“Titan”). This Titan Aviation Card Terms and Conditions (the “Agreement”) is entered into, by and between Titan and the entity that signed the Application as “Company” for the establishment of a Program. This Agreement supersedes any previous and like agreements between Company and U.S. Bank, doing business as Multi-Service Aviation or “MSA.”

**1. EFFECTIVE DATE.** The terms and conditions of this Agreement shall not become effective until Titan has (1) approved the creditworthiness of Company; and (2) approved the Application. The “Effective Date” of this Agreement shall be the date on which Titan approves the Application. Titan will notify Company when the Application has been approved and the Agreement becomes effective.

**2. SCOPE OF TITAN AVIATION CARD PROGRAM.** Upon approval as indicated above, Titan will issue Aviation Cards (“Card(s)”) and establish related Accounts for Company and any affiliated entity named on the Application that is approved by Titan (“Participant”). The Titan Aviation Card Program (the “Program”) includes: transaction processing, reporting, billing, and payment systems with respect to purchases of aviation fuels and other products and services by corporate, commercial, and government aircraft operations (“Services”). Company shall furnish a list, in writing, to Titan designating such Participant(s) and business names, if business activities are conducted under a name other than that of Company’s legal name. Company shall also provide aircraft identification information (if requested). Unless Titan notifies Company to the contrary, or a Card has been terminated as provided herein, all Cards will expire upon the expiration or termination of this Agreement. All Accounts established and Cards issued hereunder shall be used solely for business purposes and shall be governed by this Agreement. “Account” means any Account established by Titan pursuant to this Agreement in the name of Company, its Participants and/or Cardholders, to which Debt is charged, regardless of whether or not a Card is issued.

**3. LIABILITY.** Company, and if applicable, Authorized Officers, shall be jointly and severally liable for all Debt incurred or arising by virtue of the use of a Card and/or Account of Company, Participant or any Cardholder. “Debt” means all amounts relating to an Account including without limitation all purchases, fees, Late Charges, and other charges or amounts due that are owed to Titan by Company, its Authorized Officer(s), affiliates, Participants, and/or Cardholders. Company and the Authorized Officers are jointly and severally liable to Titan for all Debt. This liability structure applies to any PCL (as defined below) when Section 2 of the Application has been completed.

**4. BILLING PROCEDURE.** Titan or Titan’s agent will send to Company a monthly billing statement (the “Statement”), which will itemize all charges for the billing period. The total amount shown on the Statement shall be payable upon receipt of the Statement by the Company. Payment is due within twenty-one (21) days after the date on the Statement (“Statement Date”). Billing and payment processing may be administered by a third party for Titan. Company agrees to remit payment as instructed on the respective Statement.

**5. DELINQUENCY.** An Account will become delinquent unless Titan or its designee receives the total amount shown on the Statement within twenty-one (21) days after the Statement Date, unless otherwise agreed upon by in writing by Titan and Company. Any unpaid portion of the amount outstanding will be shown on subsequent Statements under the “Account Summary” section and noted as outstanding. In the event of Company’s delinquency, Titan may elect to terminate this Agreement

immediately upon notice to Company. Whether or not Titan elects to terminate this Agreement, if any outstanding balance is not paid within twenty-one (21) days of the Statement Date of the Statement upon which it first appeared, Company also shall pay to Titan a "Late Charge" in an amount equal to 1.5% per month (18% APR) of such amount, or the highest interest rate allowed by applicable law, whichever is greater. Court costs plus reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection, and Company shall be required to promptly pay the same upon demand.

In the event Company fails to make full payment when due, Company acknowledges and agrees that Titan may, in addition to all other rights and remedies, invoke any and all statutory or equitable lien rights or those of any participating aviation merchants in connection with the enforcement of Titan's right to payment under this Agreement, and Company authorizes Titan to file a lien for the unpaid Debt, plus Late Charges from the date of the oldest unpaid Debt, aircraft title search fees, filing fees and attorney fees, against any aircraft for which Debt was incurred and made to Card(s). If the Debt remains unpaid, Titan may institute a suit against the Company to enforce the lien and collect the Debt. The Company hereby grants a security interest in the Aircraft described in the Application, and expressly adopts and agrees to the Security Agreement attached as Addendum A to this Agreement. If a lien is filed, it will be based on the aircraft lien laws of the State of Texas (regardless of the domicile of the Company or where it does business, or the state of registration of the aircraft or where the aircraft owner resides or does business, or where any of the Services were furnished, or where jurisdiction may otherwise be proper regardless of where the aircraft was at the time such Debt were incurred). Venue for enforcement of this Agreement and any lien shall be in the state courts of the State of North Carolina, U.S.A., regardless of diversity issues or amounts owed, and by using this Card, the Company hereby waives all objections to Titan's choice of law or forum. Service of process by certified mail, return receipt requested, postage prepaid, and mailed to the Company at the address on the Application shall be sufficient to confer jurisdiction regardless of where the Company is geographically located or does business. The Company will be liable to Titan for all costs and expenses of liens and litigation including, but not limited to, Late Charges, attorney's fees, court and discovery costs and/or other costs incurred by Titan in enforcing its rights hereunder.

**6. DISPUTED BILLINGS.** Company must notify Titan or Titan's agent, of any disputes regarding charges or billings hereunder in writing. Written notice of billing disputes must be sent to Titan Aviation Fuels at PO Box 12327, New Bern, NC 28561 or by fax to 252-633-3125. Communications must include the Company's name and Account number(s), the dollar amount of any dispute or suspected error and a detailed description of the dispute or error. Any communication regarding a dispute or suspected error must be received in written form by Titan within twenty-one (21) days from Statement Date. If Titan determines that the any amount subject to a dispute is a valid charge, then Company will promptly remit payment of such amount within five (5) business days.

**7. LOST OR STOLEN CARD(S) OR COMPROMISED ACCOUNT(S).** Company shall immediately upon receipt of information or reasonable suspicion, of a lost or stolen Card or the unauthorized access of an Account, notify Titan by either: 1) telephone at 800-334-5732; 2) in writing addressed to Titan Aviation Fuels at PO Box 12327 New Bern, NC 28561; 3) via facsimile at 252-633-3125; . After notification has been made to Titan, further use of such Card(s) and/or Account access are expressly prohibited, and the Company shall immediately destroy such Card(s). Company is liable for the unauthorized use of the Card until Titan receives notification of the lost or stolen Card and has a reasonable opportunity to freeze or cancel the Card or Account. Company agrees to fully cooperate with and assist Titan and its agent, in

determining the facts, circumstances, and other pertinent information related to any loss, theft, or possible unauthorized use of the Card and/or Account and to comply with such procedures as may be requested by Titan and its agent in connection with an investigation. Titan and its agent are not responsible for controlling the use of any Card(s), other than as specifically provided herein.

**8. FEES.** The fees listed below shall apply to this Agreement. Failure of Titan to apply any fee or charge outlined in this Agreement at any time does not preclude Titan from subsequently applying such fee or charge. Titan reserves the right to change pricing upon thirty (30) days prior notice to Company.

a. If any payment on an Account is returned unpaid or the bank fails to honor any payment to Titan, Company agrees to pay a returned funds fee of thirty U.S. Dollars (\$30.00) or such other amount allowed by law.

b. Late Charges as detailed in the "DELINQUENCY" section above.

**9. CONFIDENTIALITY.** Titan considers the Program to be a unique service involving proprietary information of Titan. Company agrees that the Program reports, manuals, documentation, systems, processes and related materials (whether or not in writing) are confidential and will be circulated only to employees and agents of Company, and only to the extent necessary for Company to participate in the Program. Company will maintain the confidentiality of such information during the term of this Agreement and following termination.

**10. TERM, TERMINATION AND SUSPENSION.**

a. This Agreement shall remain in full force and effect for an initial term of three (3) years from the Effective Date of this Agreement, and shall be renewed for successive three (3) year terms thereafter, at the sole and uncontrolled discretion of Titan, until terminated by Company, or Titan upon thirty (30) days notice to the other party, effective at the end of the then-current term. The effective date of termination shall be stated in such written notice of termination. All Cards and related Accounts shall be deemed canceled effective upon termination of this Agreement.

b. Notwithstanding the foregoing, a party shall have the right to terminate this Agreement immediately, by written notice of such termination to the other party, upon any one (1) or more of the following events: (i) dissolution or liquidation of the other Party, or Parent thereof, if applicable; (ii) insolvency of the other party, or Parent thereof, if applicable, or the filing of a bankruptcy or insolvency proceeding by the other party, the appointment of a receiver or trustee for benefit of creditors of the other party or the other party enters into an arrangement with its creditors; (iii) any material and adverse change in the financial condition of the other party; or (iv) any failure by the other party to perform a material obligation of this Agreement.

c. Upon termination of this Agreement for any reason, Company shall ensure destruction of all Cards and return all confidential information of Titan to Company, and Authorized Officer if applicable, shall remain liable for all Debt incurred or arising by virtue of the use of a Card and/or Account prior to the termination date.

d. Titan shall have the right to suspend any and all services and demand immediate payment in full of all Debt under this Agreement in the event that: (i) Company has breached any term of this Agreement; (ii) Debt due from Company, in the aggregate, exceeds the ACL or PCL as these terms are defined in Section 15 of this Agreement; or (iii) an Account becomes delinquent. Court costs plus Titan's reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection, and shall be paid by Company.

e. Rights, Debt or liabilities that arise prior to the suspension or termination of this Agreement shall survive the suspension or termination of this Agreement.

## **11. INDEMNIFICATION.**

a. Company shall indemnify and hold Titan harmless against all losses, damages, costs, expenses and liability which may result in any way from any negligent or wrongful act or omission of Company, Participants, its agents, employees and subcontractors. Company shall indemnify and hold Titan harmless against demands, claims, suits, or proceedings alleging infringement of any patent of the United States, or any trademark, service mark, copyright or other proprietary right arising out of or incident to this Agreement.

**12. LIMITATION OF LIABILITY.** IN NO EVENT SHALL COMPANY, TITAN, OR ANY AFFILIATE OF EITHER BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE.

**13. WARRANTIES.** Company warrants the truth, completeness and accuracy of the following in connection with this Agreement: (i) The financial information and all other information provided to Titan; (ii) This Agreement is a valid, binding and enforceable agreement; (iii) The execution of this Agreement and the performance of its obligations are within Company's power, has been authorized by all necessary action and does not constitute a breach of any agreement of Company with any party; (iv) Company has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the use of the Card and/or participation in the Program; (v) the execution of this Agreement and the performance of its obligations under this Agreement will not cause a breach by it of any duty arising in law or equity; and (vi) Company possesses the financial capacity to perform all of its obligations under this Agreement. The parties agree that the failure of any of the above representations and warranties to be true during the term of this Agreement shall constitute a material breach of this Agreement and Titan will have the right, upon notice to Company, to immediately terminate this Agreement and all amounts outstanding hereunder shall be immediately due and payable.

TITAN HEREBY DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO GOODS AND SERVICES PURCHASED WITH ITS CARDS AND/OR ACCOUNTS, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY AND DAMAGES DISCLAIMER SHALL APPLY WHETHER TITAN ACTS AS CARD ISSUER, ARRANGER OF THIRD-PARTY CREDIT, OR OTHERWISE.

**14. FINANCIAL INFORMATION.** Company shall provide information as requested by Titan to perform periodic credit reviews. Company shall provide the following, as applicable, upon request: (i) if Company anticipates monthly charge volume of equal to or less than \$25,000.00, information about an authorized officer whom Titan may underwrite on behalf of Company within Section 2 of the Application, or (ii) if Company anticipates monthly charge volume of greater than \$25,000.00 but less than \$50,000.00, the last annual financial statements, or (iii) if Company anticipates monthly charge volume of greater than \$50,000.00 but less than \$250,000.00, the last two (2) years of annual financial statements, or (iv) if Company anticipates monthly charge volume of greater than \$250,000.00, the last three (3) years of annual financial statements. If the financial statements are older than five (5) months when provided, Company must also provide interim financial statements. Annually thereafter, as soon as available and in any event not later than one hundred twenty (120) days after the end of each fiscal year of Company, Company shall provide the previous year's financial statements, if requested. Titan prefers audited financial statements that have been prepared by Company's independent certified public accountant. In the event Titan requires additional information to conduct its review of Company, or if Company's monthly charge volume increases such that the information it provided as described in 14.(i) above is no

longer sufficient for underwriting Company, Company agrees to provide to Titan the information set forth above, as the case may dictate, and if requested, such other information regarding the business, operations, affairs, and financial condition of Company as Titan may reasonably request.

**15. AGGREGATE PRODUCT CREDIT LIMIT AND ACCOUNT CREDIT LIMITS.** Subject to credit approval by Titan, an Account credit limit (an “ACL”) for each Account and an aggregate product credit limit (the “PCL”) for all Accounts shall be established by Titan pursuant to this Agreement and communicated to Company.

a. Revising the PCL. Titan, at its sole discretion, shall have the right to revise the PCL. Titan shall provide notice to Company of any decrease in the PCL which results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts. Upon such event, Company shall have ten (10) days to make a payment to Titan that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.

b. Revising ACLs. Titan, at its sole discretion, shall have the right to revise any ACL. (1) Company Accounts. Titan shall provide notice to Company of any decrease in an ACL which results in a revised ACL that is lower than the aggregate current amount outstanding on the Account. Upon such event, Company shall have ten (10) days to make a payment to Titan on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL. (2) Fraudulent Activity. Titan may revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected, or Titan may immediately terminate any Account based upon its suspicion of fraudulent activity, acting in its sole and uncontrolled discretion.

**16. CHANGE IN TERMS OF THE AGREEMENT.** Titan may change the APRs, fees and other Account terms in the future based on its experience with Company and its affiliates as provided under the agreement and applicable laws at any time by giving Company notice. If permitted by applicable law, such changes will apply to existing Account balances as well as future purchases. If Company does not accept the changes, Company must notify Titan in writing within twenty-five (25) days after the date of the notice that Company refuses to accept the changes and elects to terminate this Agreement. Should Company elect to terminate this Agreement pursuant to this Section, all outstanding Debt shall become due and payable by Company to Titan and/or Titan, according to the terms of the existing Agreement. Company will also be responsible for ensuring the destruction of all Cards.

**17. REGISTERED MARKS AND TRADEMARKS.** Company has no right, title or interest, proprietary or otherwise, in or to the name or any logo, copyright, service mark or trademark owned or licensed by Titan.

**18. NOTICES.** Except with respect to notices relating to the status of individual Cards which may be established in writing between Titan and Company or a Participant, all notices, requests and other communication provided for hereunder must be directed to Company at the address on the Application and to Titan Aviation Fuels at PO Box 12327, New Bern, NC 28561. Unless otherwise specified herein, requests and other communication provided for hereunder must be in writing, postage prepaid, hand delivered or by any means approved by Titan. Either party may, by written notice to the other, change its notification address.

**19. GOVERNING LAW.** The validity, interpretation and performance of this Agreement will be controlled by and construed under the laws of the State of North Carolina (without giving effect to the conflict of law principles thereof) and applicable federal laws.

**20. COMPANY CONTACT.** The Company Contact(s) listed on the Application is/are authorized to provide Titan with the information necessary to establish the Account records and Cards, including, but not

limited to, passwords, aircraft information, and other Account-related information. Titan is authorized to send all Account information and Cards produced to the attention of Company Contact(s). Company may, at any time, by written notice to Titan Aviation, change its Company Contact(s) or designate different Company Contact(s) than is listed on the Application.

**21. ASSIGNMENT.** This Agreement and any and all rights and Debt associated with the same may be assigned without prior notice to Company. All of Titan's rights under this Agreement shall also apply to any assignee of this Agreement. Company may not assign or transfer this Agreement or any rights or Debt hereunder, by merger, of law, or otherwise, without the prior written consent of Titan.

**22. CUSTOMER SERVICE.** Company may contact Titan Aviation's customer service center at 252-633-0066 for Card Program customer service.

**23. SEVERABILITY.** Should any provision of this Agreement be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The parties shall use their best efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the intent of the parties.

**24. ACCOUNT SECURITY.** The Program may enable Company to access Account and certain purchase information via Titan Aviation's website, including on-line billing and payment mechanisms and other media such as an automated telephone service. Company agrees to follow Titan Aviation Processing Center security procedures and to keep any passwords confidential. Company is responsible for any losses or unauthorized access to Account data that results from failure of Company or that of Participants, employees, or other agents to fully comply with Titan Aviation security procedures.

IMPORTANT NOTICE. THIS AGREEMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS COMPANY MAY HAVE AS A DEBTOR AND ALLOWS TITAN TO OBTAIN A JUDGMENT AGAINST COMPANY WITHOUT ANY FURTHER NOTICE IN THE EVENT OF COMPANY'S DEFAULT.

**25. CONFESSION OF JUDGMENT.** If Company fails or refuses to honor any of its Debt set forth in this Agreement when they become due, it shall be in default, in which case Company appoints without any further action on its part, Aviation Law Center as its attorney-in-fact acting under and by virtue of a power of attorney hereby duly executed and acknowledged by Company for the purpose of confessing judgment against Company in favor of Titan or their assignee for the unpaid balance of Company's indebtedness to Titan, plus post judgment interest at the rate of two percent (2%) per month of the outstanding balance as set forth in the judgment until paid in full, and the actual costs of collection, including filing fees, expenses, and attorney fees.